

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

ALEJANDRO BENAVIDEZ

VS.

BURLINGTON NORTHERN SANTA FE
CORP., ET AL

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§
§
§

CIVIL ACTION 3:07-CV-00105
[JURY]

PLAINTIFF'S FIRST SUPPLEMENTAL DESIGNATION OF EXPERTS

COMES NOW PLAINTIFF in the above-entitled and numbered cause and files this

First Amended Designation of Experts, as follows:

1. Charles L. Culver
17625 El Camino Real, Suite 395
Houston, Texas 77058
281-486-1859

Charles L. Culver is a former certified locomotive engineer and has been qualified as an instructor of Operating Rules, Safety Rules, and Air Brake and Train Handling Rules applicable to trainmen and engineers through his training with Union Pacific Railroad. Mr. Culver will testify as to his assessment of train handling, railroad operations, rules compliance, industry practice/standards, as well as the actions and responsibilities of railroad personnel as applicable to the circumstances of this incident. His report, CV and rate sheet have been previously produced.

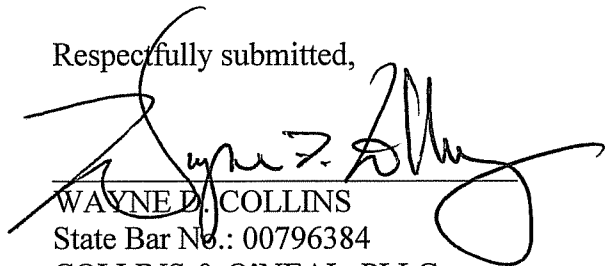
2. Jacqueline Kelly, MD, JD
Certified Life Care Planner
904 W. 30th Street
Austin, Texas 78705
512-587-0065

Jacqueline Kelly is a Certified Life Care Planner whose expertise is formulating life care plans for patients with various injuries such as spinal cord injuries, traumatic brain injuries, musculoskeletal trauma, amputation, and multiple disabilities. Dr. Kelly has been a practicing physician for approximately twenty-five years and maintained a law practice from 1991-2001. She will testify as to all aspects of the Life Care Plan she developed for Plaintiff Alex Benavidez. Her report, CV, and rate sheet have been previously produced.

3. Thomas H. Mayor, Ph.D.
5555 Del Monte, Suite 1306
Houston, Texas 77056-4148
713-552-1522

Dr. Mayor is an economist who teaches as a Professor of Economics at the University of Houston. Dr. Mayor will testify as to the economic damages incurred by Plaintiff. Dr. Mayor will testify as to Plaintiff's Annual Net Base Earning Capacity, Loss of Earning Capacity, Present Value of Future Unimpaired Earning Capacity, Loss of Future Earning Capacity and Future Cost of Care. His report, CV and rate sheet have been previously produced. Attached hereto as "Exhibit A" is the supplements and updates to present value tables of lost wages and life care plan.

Respectfully submitted,



WAYNE D. COLLINS
State Bar No.: 00796384
COLLINS & O'NEAL, PLLC
1177 West Loop South, Suite 700
Houston, Texas 77027
Telephone (713) 222-0381
Facsimile (713) 759-9650

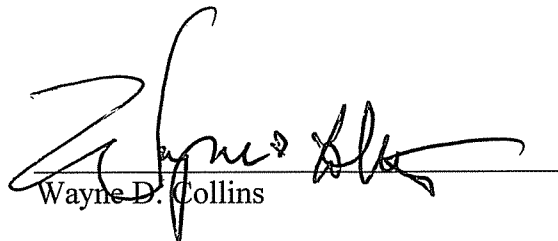
**ATTORNEY IN CHARGE
FOR PLAINTIFF**

OF COUNSEL:

Francis I. Spagnoletti
State Bar No.: 18869600
1600 Smith, 45th Floor
Houston, Texas 77002
Telephone (713) 653-5600
Facsimile (713) 653-5656

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served upon all counsel of record via Southern District of Texas Electronic Filing System, in accordance with the Federal Rules of Civil Procedure on this 19^h day of May, 2008.


Wayne D. Collins

MAY-18-2008 02:44P FROM:MAYOR

7135521522

TO: 7137599650

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DR. THOMAS H. MAYOR

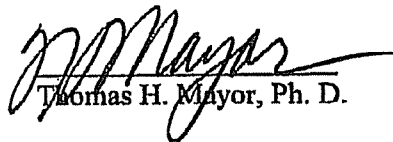
May 17, 2008

Mr. Wayne D. Collins
Collins & O'Neal
1177 West Loop South, Suite 700
Houston, Texas 77027

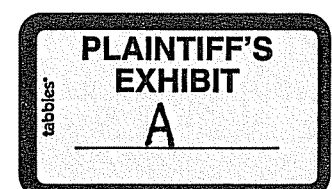
Re: Alex Benavidez

Dear Mr. Collins:

Attached are the three calculations that I have prepared in this case revised to a trial date of May 27, 2008. There are no changes in the methodology as described in my 2007 preliminary report and in my deposition.


Thomas H. Mayor, Ph. D.

5555 DEL MONTE, SUITE 1306
HOUSTON, TEXAS 77056
713-552-1522



MAY-18-2008 02:44P FROM:MAYOR

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TO: 7137599650

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TABLE 1
UNIMPAIRED EARNING CAPACITY - MR. ALEX BENAVIDEZ

YEAR (1)	AGE (2)	EARN (3)	PV (4)	CUMPV (5)	EARN (6)	PV (7)	CUMPV (8)
2005	23	14,300					
2006	24	20,000					
2007	25	20,000					
2008	26	8,060					
TO 5/27/07		62,360					
2008	26	19,504	19,504	19,504	19,504	19,504	19,504
2009	27	33,241	33,076	52,579	32,914	32,589	52,092
2010	28	33,823	33,487	86,067	33,161	32,508	84,600
2011	29	34,415	33,904	119,970	33,410	32,427	117,028
2012	30	35,017	34,325	154,296	33,661	32,347	149,375
2013	31	35,630	34,752	189,048	33,913	32,267	181,642
2014	32	36,253	35,185	224,232	34,167	32,187	213,829
2015	33	36,888	35,622	259,854	34,424	32,108	245,937
2016	34	37,533	36,065	295,920	34,682	32,028	277,965
2017	35	38,190	36,514	332,433	34,942	31,949	309,913
2018	36	38,858	36,968	369,401	35,204	31,870	341,783
2019	37	39,538	37,428	406,829	35,468	31,791	373,574
2020	38	40,230	37,893	444,722	35,734	31,712	405,286
2021	39	40,934	38,365	483,087	36,002	31,634	436,920
2022	40	41,651	38,842	521,929	36,272	31,555	468,475
2023	41	42,380	39,325	561,253	36,544	31,477	499,952
2024	42	43,121	39,814	601,067	36,818	31,399	531,352
2025	43	43,876	40,309	641,377	37,094	31,322	562,673
2026	44	44,644	40,810	682,187	37,373	31,244	593,917
2027	45	45,425	41,318	723,505	37,653	31,167	625,084
2028	46	46,220	41,832	765,337	37,935	31,090	656,174
2029	47	47,029	42,352	807,689	38,220	31,013	687,186
2030	48	47,852	42,879	850,568	38,506	30,936	718,122
2031	49	48,689	43,412	893,981	38,795	30,859	748,982
2032	50	49,541	43,952	937,933	39,086	30,783	779,765
2033	51	50,408	44,499	982,432	39,379	30,707	810,471
2034	52	51,290	45,052	1,027,485	39,675	30,631	841,102
2035	53	52,188	45,613	1,073,098	39,972	30,555	871,657
2036	54	53,101	46,180	1,119,278	40,272	30,479	902,136
2037	55	54,031	46,755	1,166,032	40,574	30,404	932,540
2038	56	54,976	47,336	1,213,368	40,878	30,329	962,869
2039	57	55,938	47,925	1,261,293	41,185	30,253	993,122
2040	58	18,896	16,109	1,277,402	13,776	10,019	1,003,141
FUTURE TO AGE 59.2			1,277,402			1,003,141	

MID-POINT OF RANGE

1,140,272

Note: Based on earnings of average Hispanic male high school graduate.

MAY-18-2008 02:44P FROM:MAYOR

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TO:7137599650

P.4

TABLE 2
UNIMPAIRED EARNING CAPACITY - MR. ALEX BENAVIDEZ

YEAR (1)	AGE (2)	EARN (3)	PV (4)	CUMPV (5)	EARN (6)	PV (7)	CUMPV (8)
2005	23	14,300					
2006	24	20,000					
2007	25	20,000					
2008	26	8,060					
TO 5/27/08		62,360					
2008	26	49,364	49,364	49,364	49,364	49,364	49,364
2009	27	84,134	83,715	133,079	83,307	82,482	131,846
2010	28	85,606	84,756	217,835	83,931	82,278	214,123
2011	29	87,104	85,810	303,645	84,561	82,074	296,197
2012	30	88,628	86,878	390,523	85,195	81,871	378,068
2013	31	90,179	87,958	478,481	85,834	81,668	459,736
2014	32	91,757	89,052	567,533	86,478	81,466	541,202
2015	33	93,363	90,160	657,693	87,126	81,264	622,467
2016	34	94,997	91,281	748,974	87,780	81,063	703,530
2017	35	96,659	92,417	841,391	88,438	80,863	784,393
2018	36	98,351	93,566	934,957	89,102	80,662	865,055
2019	37	100,072	94,730	1,029,687	89,770	80,463	945,518
2020	38	101,823	95,908	1,125,595	90,443	80,264	1,025,782
2021	39	103,605	97,101	1,222,696	91,121	80,065	1,105,847
2022	40	105,418	98,309	1,321,004	91,805	79,867	1,185,713
2023	41	107,263	99,531	1,420,536	92,493	79,669	1,265,382
2024	42	109,140	100,769	1,521,305	93,187	79,472	1,344,854
2025	43	111,050	102,023	1,623,328	93,886	79,275	1,424,130
2026	44	112,994	103,292	1,726,619	94,590	79,079	1,503,208
2027	45	114,971	104,576	1,831,196	95,300	78,883	1,582,092
2028	46	116,983	105,877	1,937,073	96,014	78,688	1,660,780
2029	47	119,030	107,194	2,044,267	96,734	78,493	1,739,273
2030	48	121,113	108,527	2,152,794	97,460	78,299	1,817,572
2031	49	123,233	109,877	2,262,671	98,191	78,105	1,895,677
2032	50	125,389	111,244	2,373,914	98,927	77,912	1,973,589
2033	51	127,584	112,627	2,486,542	99,669	77,719	2,051,307
2034	52	129,816	114,028	2,600,570	100,417	77,527	2,128,834
2035	53	132,088	115,446	2,716,016	101,170	77,335	2,206,169
2036	54	134,400	116,882	2,832,898	101,929	77,143	2,283,312
2037	55	136,752	118,336	2,951,234	102,693	76,952	2,360,264
2038	56	139,145	119,808	3,071,042	103,463	76,762	2,437,026
2039	57	141,580	121,298	3,192,340	104,239	76,572	2,513,598
2040	58	47,827	40,772	3,233,112	34,867	25,359	2,538,957
FUTURE TO AGE 59.2			3,233,112			2,538,957	

MID-POINT OF RANGE

2,886,034

Note: Based on average earnings of railroad workers.

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TABLE 3
FUTURE MEDICAL CARE - MR. ALEX BENAVIDEZ

YEAR (1)	AGE (2)	CARE (3)	PV (4)	CUMPV (5)	CARE (6)	PV (7)	CUMPV (8)
2008	26	10,877	10,877	10,877	10,770	10,770	10,770
2009	27	18,219	18,128	29,005	18,040	17,861	28,631
2010	28	18,538	18,354	47,358	18,175	17,817	46,448
2011	29	18,862	18,582	65,940	18,311	17,773	64,220
2012	30	19,192	18,813	84,753	18,449	17,729	81,949
2013	31	19,528	19,047	103,800	18,587	17,685	99,634
2014	32	19,870	19,284	123,084	18,726	17,641	117,275
2015	33	20,217	19,524	142,607	18,867	17,597	134,872
2016	34	20,571	19,767	162,374	19,008	17,554	152,426
2017	35	20,931	20,012	182,386	19,151	17,510	169,937
2018	36	21,297	20,261	202,648	19,295	17,467	187,404
2019	37	21,670	20,513	223,161	19,439	17,424	204,828
2020	38	22,049	20,768	243,929	19,585	17,381	222,208
2021	39	22,435	21,027	264,956	19,732	17,338	239,546
2022	40	22,828	21,288	286,244	19,880	17,295	256,841
2023	41	23,227	21,553	307,797	20,029	17,252	274,093
2024	42	23,634	21,821	329,618	20,179	17,209	291,302
2025	43	24,047	22,093	351,711	20,331	17,167	308,469
2026	44	24,468	22,367	374,078	20,483	17,124	325,593
2027	45	24,896	22,646	396,724	20,637	17,082	342,675
2028	46	25,332	22,927	419,651	20,791	17,040	359,714
2029	47	25,775	23,212	442,863	20,947	16,997	376,711
2030	48	26,227	23,501	466,364	21,104	16,955	393,667
2031	49	26,685	23,793	490,158	21,263	16,913	410,580
2032	50	27,152	24,089	514,247	21,422	16,871	427,451
2033	51	27,628	24,389	538,636	21,583	16,830	444,281
2034	52	28,111	24,692	563,328	21,745	16,788	461,069
2035	53	28,603	24,999	588,327	21,908	16,746	477,816
2036	54	29,104	25,310	613,638	22,072	16,705	494,521
2037	55	29,613	25,625	639,263	22,238	16,664	511,184
2038	56	30,131	25,944	665,207	22,404	16,622	527,807
2039	57	30,658	26,267	691,473	22,573	16,581	544,388
2040	58	31,195	26,593	718,066	22,742	16,540	560,928
2041	59	31,741	26,924	744,990	22,912	16,499	577,427
2042	60	32,296	27,259	772,249	23,084	16,458	593,886
2043	61	32,862	27,598	799,847	23,257	16,418	610,303
2044	62	33,437	27,941	827,788	23,432	16,377	626,680
2045	63	34,022	28,289	856,077	23,608	16,337	643,017
2046	64	34,617	28,641	884,717	23,785	16,296	659,313
2047	65	35,223	28,997	913,714	23,963	16,256	675,569
2048	66	35,839	29,357	943,072	24,143	16,216	691,784
2049	67	36,467	29,723	972,794	24,324	16,175	707,960
2050	68	37,105	30,092	1,002,886	24,506	16,135	724,095
2051	69	37,754	30,467	1,033,353	24,690	16,095	740,190
2052	70	38,415	30,845	1,064,198	24,875	16,056	756,246
2053	71	39,087	31,229	1,095,427	25,062	16,016	772,262
2054	72	39,771	31,618	1,127,045	25,250	15,976	788,238
2055	73	40,467	32,011	1,159,056	25,439	15,937	804,175
2056	74	41,175	32,409	1,191,465	25,630	15,897	820,072
2057	75	34,857	27,300	1,218,764	21,484	13,194	833,265
FUTURE TO AGE 76.7			1,218,764			833,265	

MID-POINT OF RANGE

1,026,015